

All these parts of the patent application, as now pending, are presented in a single attached document titled SECOND SUBSTITUTE SPECIFICATION AND OTHER PARTS OF APPLICATION which is incorporated by reference in the present Amendment. Such was done to facilitate examination of the present case. In addition, the Applicant hereby submits a document titled "SECOND MARKED UP COPY" that shows the changes in the specification for the record. These documents are titled "SECOND..." to distinguish from similarly intended documents that were filed as part of an earlier amendment. (That amendment was not entered.)

The Applicant thanks the Examiner for the effort expended in examining the present patent application. The Applicant respectfully requests reconsideration. In addition to the above amendments, the Applicant makes the following remarks regarding individual issues:

No new matter:

The substitute specification contains no new matter. It is respectfully asked that the amendments to the specification be entered as presented in this Amendment.

In a number of earlier Office Actions the Examiner challenged some elements as new matter. The Applicant has deleted from the specification these elements, namely:

- a) the requirement that the ring be "a few thousandths of an inch larger";
- b) the use of a "thin cloth material" for a strap;
- c) the use of a "simple over hand knot"; and
- d) the suggestion that the principle may be extended to applications involving other musical instruments or objects.

In the last Office Action, the Examiner further challenged as new matter some material shown in the Applicant's specification portion of previous amendment, and thus refused to enter the amendment. It was asserted that the method described by the material was new matter.

The Applicant believes that a method is fully described in the specification as it stands prior to this amendment. In order to facilitate discussion, the material in question is not presented again, but such is not an admission of anything. The Applicant notes that the method is described in the specification of record.

Specifically for claim 6, the following references are made from page number and line number of the document titled "SECOND MARKED UP COPY". Note that the references are from the specification of record prior to this Amendment.

The positive method limitations are found in the specification as follows:

"suspending": page 7, lines 8-9 (material deleted and rewritten elsewhere); and

"pulling", "inserting", "sliding" and "reconnecting": page 7, lines 15-22 (material deleted and rewritten elsewhere).

* The rejection of claim 6 based on 35 U.S.C. §112 first paragraph:

The Examiner rejected claim 6 based on 35 U.S.C. §112 first paragraph as containing new subject matter. The rejection is respectfully traversed. While the first paragraph of 35 U.S.C. §112 addresses new matter, it speaks to the specification but not to claims.

* The rejection of claim 6 based on 35 U.S.C. §112 second paragraph:

The Examiner rejected claim 6 based on 35 U.S.C. §112 second paragraph. The rejection is respectfully traversed, although it is believed that it has become moot by the present Amendment. The Applicant clarifies that claim 6 is drawn to the method of using the device to suspend the recorder.

The Examiner asserted that claim 6 contains both product limitations and method limitations. As amended, the claim does not claim a device, only a method of using it.

The Examiner characterized claim 6 as both an apparatus and a method of using the apparatus. As amended, claim 6 is not an apparatus claim.

The Examiner invokes *Ex Parte Lyell*, 17 U.S.P.Q.2d 1548 (Bd. of Pat. App. & Int. 1990). In *Lyell* the disputed claim was for both an apparatus *and* a device. Starting with the preamble:

2. An automatic transmission tool in the form of a workstand *and* a method of using same comprising:

(italics added), *Lyell* at 1549.

The disputed claim further recites positive device limitations (a support means, a sleeve, a bolt) and then method steps (positioning, removing, etc.) *within the same claim*.

In the instant application, however, pending claim 6 as amended only recites method steps. That is why *Lyell* is inapposite.

* The rejection of claim 6 based on 35 U.S.C. §101:

The Examiner rejected claim 6 based on 35 U.S.C. §101 as overlapping two different statutory classes of invention, namely "process" and "machine". The Examiner is using the same argument as above.

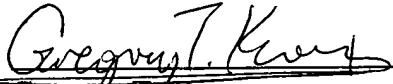
The rejection is respectfully traversed, although it is believed that it has become moot by the present Amendment. The Applicant repeats the arguments above.

The Applicant notes that in *Lyell* the disputed claim was rejected also over 35 U.S.C. §101, because it included both "process" type elements and "machine" type elements. But *Lyell* is inapposite to the present application, as described above.

CONCLUSION

In view of the foregoing, it is believed that all claims now pending patentably define the subject invention over the prior art of record and are either in condition for allowance or in improved form for appeal. The Applicant earnestly solicits favorable action.

Respectfully submitted,



Gregory V. Kavounas
PTO Reg. No.: 37,862
Attorney for Applicant
Suite 16B
11654 S.W. Pacific Highway
Tigard, OR 97223

10-29-98
(date)

tel: (503) 684-5800
fax: (503) 968-8775



Attorney Docket No: PEBE.P.001

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Andrew M. Perry)	
)	Examiner: Mrs. Renee Luebke
Serial No.: 08/689,721)	
)	Art Unit: 2832
Date Filed: 08-12-96)	
)	
For: (amended:) DEVICE FOR)	
SUSPENDING A RECORDER AND)	
METHOD FOR USING THE SAME)	
)	
(formerly: HALO HANGER))	

SECOND MARKED - UP COPY

This is a document is incorporated by reference into the Applicant's Amendment of 10-29-98. This document shows:

- * the specification of record (version entered by Applicant's Amendment on June 2, 1997),
- * as it is being amended by the present Amendment.

[This document is titled "SECOND ..." to differentiate from a similar "first" such document that was submitted as part of an earlier amendment (which amendment was not entered).]

1 [SPECIFICATION]

2 [Title, Halo Hanger]

3 DEVICE FOR SUSPENDING A RECORDER
4 AND METHOD FOR USING THE SAME

5 BACKGROUND OF THE INVENTION

6 [a. Background.] Field of the Invention.

7 _____This invention pertains to the general field of [a neck strap arrangement for carrying
8 a musical instrument or other object. In particular, it provides a new and improved method
9 of] carrying a woodwind musical instrument known as a recorder.

10 [b. Objects and Advantages.]

11 [(1)] Description of the Prior Art.__

12 _____The recorder is an instrument that is of such size that it can be carried easily. This
13 instrument is most often used by children in early grade school for instruction in music.
14 Most often the child will purchase a recorder. The child will then carry the recorder to
15 class and carry it in the hand during class. If the child needs to use the hands for another
16 purpose, the recorder is laid down. As such, the recorder is [and] subject to loss,
17 contamination or confusion when play is to be continued. Also, like with anything a child
18 is forced to carry in their hands, the recorder [object] can be inappropriately used as a toy,
19 weapon, or whatever fits the occasion.

20 Prior art is limited to some resourceful teachers that have simply tied a string around
21 the recorder with some sort of loop that is placed around the child's neck to suspend the

1 recorder. Because the knots may slip, come untied or can not be readily untied, this
2 method has not gained wide support. In addition, after the teacher has tied all the knots
3 required by the students, the teacher has little time left for instruction. Thus, at the present
4 time, there is no suitable means for the hand free carrying of the recorder. Also, this
5 method has only been applied to recorders possessing a definite ridge along their [its] shaft,
6 and not merely to recorders with a tapered shaft.

7 [(2)] Objectives. _

8 _____ It is therefore an objective of this invention to provide a device for conveniently
9 carrying a recorder [or any similar object,] with an expanding circumference shaft, from
10 [securely affixed to] a strap that is worn about the neck.

11 Another objective of the invention is the realization of the above mentioned objective
12 with simple, reliable and inexpensive hardware.

13 SUMMARY OF THE INVENTION

14 The invention provides a device for carrying a recorder and a method for using it.

15 The device comprises a ring attached to a strap. The user wears the strap around
16 their neck, with the ring in the front. The recorder is thus suspended from the neck of the
17 user.

18 [(3) Advantages. In accordance with these and other objectives, t] The method and
19 apparatus of this invention consist of a ring and an attached strap. The ring is made of
20 durable material and is of sufficient inside diameter so as to fit, after the strap has been
21 secured to the ring, snugly around the shaft of the mouth piece of the recorder. The ring is

1 secured on the recorder by pulling the recorder apart at its dividing point or sliding it over
2 the lower narrow end and then slipping the ring around the mouth piece section and sliding
3 it up the shaft until it is securely lodged on the shaft. Because the diameter of the shaft
4 increases towards the end where the instrument is blown, the ring will be secure on the
5 recorder shaft between the fingering holes and the mouth piece. The two pieces of the
6 recorder are then reconnected, if applicable.

7 Using the device thus frees both hands of the user. This and other advantages of the
8 present invention will be understood and more appreciated after a consideration of the
9 following drawings and the detailed description of the invention.

10 [Various other purposes and advantages of the invention will become clear from its
11 description in the specifications that follows, and from the novel features particularly
12 pointed out in the appended claims. Therefore, to the accomplishment of the objectives
13 described above, this invention consists of the feature hereinafter illustrated in the
14 drawings, fully described in the detailed description of the preferred employment and
15 particularly pointed out in the claims. However, such drawings and descriptions disclose
16 only some of the various ways in which the invention may be practiced.]

17 BRIEF DESCRIPTION OF THE DRAWINGS

18 [c. Description of Drawings.]

19 [(1) Brief Description. This invention together with its features and advantages can
20 be better understood from the following description when read in conjunction with the
21 drawings in which]

1 FIG. 1 is a perspective view of the ring of the device of the invention.

2 FIG. 2 is a perspective view of the device of the invention.

3 FIG. 3 is a perspective view of a recorder being suspended from the device of the
4 invention [attached to a recorder].

5 DETAILED DESCRIPTION OF THE INVENTION

6 [(2) Detailed Description. The heart of this invention lies in the simple ring, which
7 makes it possible to conveniently attach a strap to a recorder. Thus, the main objective of
8 providing an easy method to carry a recorder is met.]

9 Referring to the drawings, [wherein the same reference numbers and symbols are
10 used throughout to designate like parts,] FIG. 1 illustrates the general configuration of the
11 ring 1 before the strap [2] is attached to it [and it is mounted on the recorder A].

12 The ring 1 is made of durable material [has a surface 3 and 5 of such dimensions]
13 so as to be able [provide strength enough] to withstand [with stand] the rigors and forces
14 that would be [anticipated] anticipated, when the device is in use by elementary age school
15 children. As illustrated in FIG. 1, the ring 1 has an outer surface 3, an inner surface 4 and
16 a side surface 5. The ring also has a radial thickness, which is defined as the distance
17 between the inner and the outer surface.

18 Referring to FIG. 2, the strap 2 is made of a material that is strong enough to hold
19 the recorder, yet be comfortable when placed around the neck. Knot 6 is any knot that will
20 neatly secure the ends of the strap 2.

21 FIG. 3 shows a recorder A supported by the device of the invention. The recorder

1 A has a proximate end and a distal end. The mouth piece (otherwise known as mouthpiece)
2 can be seen at the proximate end, since it has a larger diameter than the adjoining shaft.
3 The recorder A defines a juncture point C between the two ends. The recorder A can be
4 separated at juncture point C into two sections, lower section D and upper section B. The
5 mouthpiece is included in upper section B. The shape of the recorder is one of substantial
6 circular symmetry around an axis. That is why relevant terms like diameter are used, even
7 though the shape of the shaft might not be exactly circular at some points.

8 When FIG.s 1, 2 and 3 are viewed together, it becomes apparent from scaling
9 considerations that the radial thickness of the ring is about 1/4 the diameter of the recorder
10 at the point of the recorder where the ring is lodged.

11 The relationship of the inner surface 4 and the recorder is best seen in FIG. 3. The
12 [the precise geometry of the] inner surface 4 of the ring is circular [a circle] with a
13 diameter [a few thousandths of an inch] larger than the diameter of the recorder A at the
14 point of the juncture C [of the two pieces B and D of the recorder A]. The diameter of the
15 upper [mouth piece B] section [of the recorder A] increases gradually from the junction
16 [separation] point C to the air hole of the mouth piece [B located just above the mid point
17 of the mouth piece B]. As the recorder diameter thus increases, at some point it becomes
18 larger than the diameter of the inner surface 4. This will cause the ring, as it is being slid
19 from juncture point C towards the mouthpiece, to become lodged at some point before
20 reaching the mouthpiece.

21 [The strap 2 is made of a thin cloth material that is strong enough to hold the
22 recorder or other desired object, yet be comfortable when placed around the neck. The

1 knot 7 is a simple over-hand knot tied in the middle of strap 2 after placing one end
2 through the ring 1. Knot 6 is any knot that will neatly secure the ends of the strap 2.]

3 It is preferred that the inner diameter is such that lodging happens when the device
4 is approximately one inch above the juncture point C.

5 The ring 1 is attached to the recorder A by pulling apart the two pieces B and D of
6 the recorder A at the separation point C, or, if appropriate, by sliding it upward from the
7 small end of the recorder without separating. The ring 1 is then [slide] slid onto the shaft
8 of the mouth piece B of the recorder 1 at the end that attaches to the fingering piece D of
9 the recorder A. The ring 1 will slip onto the mouth piece B and then lodge at a point up
10 the shaft between the fingering holes and the mouth piece due to an increase in the
11 circumference of the shaft.

12 In the present description numerous details have been set forth in order to provide a
13 more thorough understanding of the present invention. It will be obvious, however, to one
14 skilled in the art that the present invention may be practiced without these specific details.
15 In other instances, well known features have not been described in detail in order to not
16 obscure unnecessarily the present invention.

17 [d. Description of the Invention. While the invention is described in terms of a
18 device for providing a means of holding or carrying a recorder, it is obvious that the same
19 principle could be extended to applications involving other musical instruments or objects.
20 Therefore, it is understood that many equivalent devices are possible within the scope of the
21 present invention, with different configurations of the ring. Thus, various changes in the
22 details, steps and materials that have been described may be made by those skilled in the art

1 within the principles and scope of the invention herein illustrated and defined in the
2 appended claims. While the present invention has been shown and described herein in what
3 is believed to be the most practical and preferred embodiment, it is recognized that
4 departures can be made therefrom within the scope of the invention, which is therefore not
5 to be limited to the details disclosed herein, but is to be accorded the full scope of the
6 claims so as to embrace any and all equivalent apparatus and methods.]

7 [e. Operation of Invention.]

8 [It is therefore an objective of this invention to provide a device for conveniently
9 carrying a recorder securely affixed to a strap that is worn about the neck.]

10 [Another objective of the invention is the realization of the above mentioned
11 objective with simple, reliable and inexpensive hardware.]

12 [In accordance with these and other objectives, the method and apparatus of this
13 invention consist of a ring and an attached strap. The ring is made of durable material and
14 is of sufficient inside diameter so as to fit, after the strap has been secured to the ring,
15 snugly around the shaft of the mouth piece of the recorder. The ring is secured on the
16 recorder by pulling the recorder apart at its dividing point and then slipping the ring around
17 the mouth piece section and sliding it up the shaft until it is securely lodged on the shaft,
18 or, if possible by sliding over the smaller end without separating the recorder. Because the
19 diameter of the shaft, of the mouth piece section, increases from the separation point
20 towards the upper end, the ring will be secure on the recorder shaft approximately one inch
21 from the dividing point. The two pieces of the recorder are then reconnected, if
22 applicable.]

1 [Various other purposes and advantages of the invention will become clear from its
2 description in the specifications that follows, and from the novel features particularly
3 pointed out in the appended claims. Therefore, to the accomplishment of the objectives
4 described above, this invention consists of the feature hereinafter illustrated in the
5 drawings, fully described in the detailed description of the preferred employment and
6 particularly pointed out in the claims. However, such drawings and description disclose
7 only some of the various ways in which the invention may be practiced.]

8 CLAIMS

9 The invention claimed is:



Attorney Docket No: PEBE.P.001

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SUSPENDING A RECORDER AND)	
METHOD FOR USING THE SAME)	
)	
(formerly: HALO HANGER))	
)	

SECOND SUBSTITUTE SPECIFICATION
AND OTHER PARTS OF APPLICATION

This document is incorporated by reference into the Applicant's Amendment of 10-29-98. This document includes:

- a) an unmarked version of the amended specification of the patent application;
- b) the amended (and only presently pending) claim 6; and
- c) the newly added Abstract (the former Abstract having been canceled).

(Such was made to bring all elements of the patent application in one place, and thus to facilitate examination.)

[This document is titled "SECOND ..." to differentiate from a similar "first" such document that was submitted as part of an earlier amendment (which amendment was not entered).]